PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.	: 10/649,450	Confirmation No.: 5775
Applicant	: Michael Doogue, et al.	
Filed	: August 26, 2003	
T.C./A.U.	: 2831	
Examiner	: Hung V. Ngo	
Docket No.	: ALLEG-039PUS	
Customer No.	: 022494	

RESPONSE TO NOTIFICATION OF NON-COMPLIANT APPEAL BRIEF

MS Appeal Brief - Patents
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In response to a Notification of Non-Compliant Appeal Brief dated October 29, 2009, please see remarks set forth below and attachments hereto.

REMARKS

Please find attached hereto, a Supplemental Appeal Brief to replace an Appeal Brief originally filed on November 5, 2008, and also to replace two amendments thereto filed in Responses to Notifications of Non-Compliant Appeal Briefs filed on April 27, 2009 and July 17, 2009.

The attached Supplemental Appeal Brief makes changes to page 21 of 21 from that filed in the most recent Response to Notification of Non-Compliant Appeal Brief filed on July 17, 2009. Page 21 of 21, in section ix, now indicates no evidence.

The attached Supplemental Appeal Brief also makes current an Internet address of a web link shown at the bottom of page 6 of 21. Subject matter at the new link is substantially the same as subject matter at the old and no longer current link. Furthermore, page 1 of 1 is amended to summarize the history of the Appeal Brief. No other changes are made.

Telephone Interview Summary

Applicant's Attorney would like to thank Examiner Ngo for the courtesy extended during a telephone interview on November 6, 2009. During the interview, it was discussed that the Notification dated October 29, 2009 is the third Notification of Non-Compliant Appeal Brief. It was discussed that cases cited by the Applicants in the Appeal Brief are not references considered by the Examiner, but are cited cases concerning points of law. It was agreed that these citations would remain in the text of the Appeal Brief, but would not be presented in the Evidence section, section ix. It was also agreed that a web page mentioned on page 6 should not be listed as evidence, since it was not listed on an IDS during prosecution. Applicants have made all agreed changes in the Supplemental Appeal Brief filed herewith.

Applicant's Attorney pointed out that the Evidence section, section ix, of the Supplemental Appeal Brief filed herewith is in the same form as originally filed on November 5,

2008. Applicants respectfully submit that this Appeal Brief is in correct form and request that it be sent to the Appeal Board.

The Commissioner is hereby authorized to charge payment of any additional fees associated with this communication or credit any overpayment to Deposit Account No. 500845.

Respectfully submitted,

Dated: NOV 9, 2005

DALY, CROWLEY, MOFFORD & DURKEE, LLP

By: _____

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Attachments:

1) Supplemental Appeal Brief with pages 1-21

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